

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN

IN RE:

VERNON GENE GOOSEN,

Debtor.

Case No. 09-01935-jrh
Chapter 13 Filed: 02/25/09
Converted to Chapter 11: 12/15/09
Converted to Chapter 7: 02/03/10

HON. JEFFREY R. HUGHES
U.S. Bankruptcy Judge

**CHAPTER 7 TRUSTEE'S CONCURRENCE
WITH U.S. TRUSTEE'S OBJECTION TO APPLICATION FOR ORDER APPROVING
EMPLOYMENT OF ATTORNEY AND U.S. TRUSTEE'S OBJECTION TO FIRST
APPLICATION FOR PAYMENT OF FEES AND EXPENSES TO ROGER G. COTNER**

The Chapter 7 Trustee, John A. Porter, by his attorneys, Foster, Swift, Collins, & Smith, P.C., states as follows:

1. Debtor commenced this bankruptcy proceeding by filing a voluntary Chapter 13 petition on February 25, 2009. Debtor's case was converted to a Chapter 11 case pursuant to an Order dated December 15, 2009, and was converted to a Chapter 7 case pursuant to an Order dated February 3, 2010.
2. John A. Porter was appointed as the Chapter 7 Trustee on February 3, 2010.
3. On December 28, 2009, Debtor filed an Application for Order Approving Employment of Attorney ("Application for Employment"), which requested that this Court authorize the employment of Roger G. Cotner and Cotner Law Office as counsel for Debtor in his Chapter 11 case.
4. The United States Trustee filed his objection to the Application for Employment on January 14, 2010. Among other reasons, the U.S. Trustee objected because Debtor's conversion to Chapter 11 was futile in light of his inability to fund a Chapter 11 plan and because Attorney Cotner potentially holds an interest adverse to the bankruptcy estate.

5. On January 2, 2010, Attorney Cotner filed his First Application for Payment of Fees and Expenses of Roger G. Cotner ("Application for Compensation"), requesting fees incurred from February 23, 2009 to December 16, 2009.

6. The U.S. Trustee filed his objection to the Application for Compensation on January 14, 2010. The U.S. Trustee's objection was based on substantially the same reasons as his objection to the Application for Employment.

7. The Chapter 7 Trustee concurs with the U.S. Trustee's objections.

8. The Chapter 7 Trustee also concurs with the U.S. Trustee's request that if reasonable fees are awarded to Attorney Cotner, then the \$5,000 retainer paid to Attorney Cotner should first be applied to those fees.

WHEREFORE, the Chapter 7 Trustee requests that this Court enter an Order:

A. sustaining the U.S. Trustee's objection to Application for Order Approving Employment of Attorney;

B. sustaining the U.S. Trustee's objection to First Application for Payment of Fees and Expenses of Roger G. Cotner;

C. granting the Chapter 7 Trustee such other and further relief as may be just and proper.

FOSTER, SWIFT, COLLINS & SMITH, P.C.
Attorneys for Chapter 7 Trustee

Dated: April 26, 2010

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